



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

DEC 19 2013

MEMORANDUM

DATE:

SUBJECT: Freedom of Information Act Appeal No. EPA-HQ-2013-005026
Freedom of Information Act Request No. EPA-R4-2013-003870

FROM: Donna M. Robinson, Environmental Protection Specialist
Information Access Section
Office of Policy and Management

THRU: LouAnn Gross, Chief
Information Access Section

A handwritten signature in black ink, appearing to read "LGross", written over the name LouAnn Gross.

TO: Kevin Miller
Office of General Counsel

Barbara Bruce
Office of General Counsel

This memorandum is in response to the Freedom of Information Act (FOIA) request dated February 21, 2013, and subsequent appeal, for records pertaining to enforcement actions, notices and company responses for the property located at 1230 Pottertown Road in Midway, Tennessee.

A Consent Order and Notice of Violation (NOV) were issued by the State of Tennessee, as the lead for this matter. When the request was initially received by EPA Region 4, we did not have physical custody of any records responsive to this matter. Therefore, the Region issued a "No Record Response". Shortly after the request was responded to by the Region, the state of Tennessee provided the following documents to EPA, copies of which we are now providing to the requester, Mr. Paddock.

- 1) A copy of the Consent Order for Case No. APC11-0276 and
- 2) Notice of Violation (NOV) issued to Scepter Greenville, Inc. by the State of Tennessee Department of Environment and Conservation (TDEC), dated January 30, 2013

Due to the state lead status on this matter, Mr. Paddock has been asked to contact TDEC for future inquiries regarding Scepter Greenville, Inc.

No attorney was assigned to this matter. However, please feel free to contact LouAnn Gross at gross.louann@epa.gov or (404) 562-9642 or me at robinson.donna@epa.gov or (404) 562-9500, if you have questions or need additional information.

30-0176



1230 Pottertown Road
Midway, TN 37809-3147
TELEPHONE: (423) 422-4731 • FAX: (423) 422-7857
www.scepterinc.com

January 30, 2013

Mr. Barry Stephens, Technical Secretary
Tennessee Department of Environment & Conservation
Division of Air Pollution Control
401 Church Street
9th Floor L & C Annex
Nashville, TN 37243

RE: Notice of Violation – January 8, 2013
Scepter Greeneville, Inc., Midway, Tennessee

RECEIVED

TN. DE. OF
AIR POLLUTION CONTROL
2013 JAN 31 PM 3:51

Dear Mr. Stephens:

This letter is written in response to the Notice of Violation issued to our Greeneville, TN facility dated January 8, 2013 which was received in our office on January 11, 2013.

In summary, the NOV was issued in response to a visible emissions evaluation (VEE) that was conducted by Ron Wilhoit on December 12, 2012. During the 30 minute period between 3:43 and 4:13 P.M., Mr. Wilhoit's report recorded three six- minute averages exceeding the applicable 20-percent opacity standard.

During the period of Ron Wilhoit's VEE, higher opacity emissions than normal were observed. This was when one of the modules of the three-module baghouse had been taken off-line by our maintenance department to remedy a malfunction. During the day, it was determined that the dust particulates had become coagulated in the module due to excessive moisture in the module. Personnel attempted removal of the blockage from the exterior of the module by vibrating the baghouse from the outside (tapping it with hammers). After the attempts to eliminate the blockage from the exterior of the module were unsuccessful, manual removal of the dust particulate was performed. For the manual removal of the dust, the module entrance and exit dampers were closed eliminating air flow to the module, thus increasing the velocity through the other modules. In accordance with the Interim Measures Procedures required by the April 2011 Consent Order, attempts to reduce the visible emissions by cutting back the ammonia; however, the attempts were unsuccessful. Due to the severity of the module blockage, the module was off-line for a period that was longer than anticipated.

This event is an unusual occurrence. Normally, any clogging in the baghouses is resolved by vibrating the affected module from the outside, with no generation of visible emissions. On occasion the clogging in a module is not resolved in this manner, and the clogging must be corrected in the manner described above. This happened once this past summer, which did not result in visible emissions. During an approximately one week period in December 2012, this happened three times, including the incident during Mr. Wilhoit's observation. These did result in visible emissions.

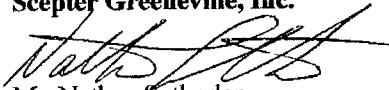
Shift supervisors have been instructed to check the baghouses for clogging more regularly, at least once per shift, and if any clogging of significance is noted to clean to the affected module by vibrating it from the outside. In addition, if bag clogging requires that a bag module be taken off-line, the effected furnace will be shut down until the module is cleaned and restored to operation.

Based on the information provided above, Scepter does not believe that any further enforcement action is warranted. If TDEC disagrees, Scepter requests the opportunity to discuss this with the Division before any enforcement action is taken. It is our understanding that it is TDEC's policy to have a meeting, if requested, before enforcement action is taken. If that is not correct, please let us know that as soon as possible.

Please let us know if you have any questions or need additional information at this time.

Sincerely,

Scepter Greeneville, Inc.

A handwritten signature in black ink, appearing to read "Nathan Sutherlen", written over a horizontal line.

Mr. Nathan Sutherlen
Plant Manager

cc: Mr. Brian Griffin
Mr. Billy Nichols



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
Air Pollution Control Division
9th Floor, L & C Annex
401 Church Street
Nashville, Tennessee 37243-1531

CERTIFIED MAIL # 7011 0110 0000 4004 8001
RETURN RECEIPT REQUESTED

Garney B. Scott III
1485 Scepter Lane
Waverly, TN 37185

RE: Scepter Greeneville, Inc.
File No. 30-0176-G2
CASE NO. APC11-0276

Dear Mr. Scott:

Enclosed please find a Consent Order issued by Barry R. Stephens, Technical Secretary of the Air Pollution Control Board, Tennessee Department of Environment and Conservation, in the above referenced matter.

The Division received information on November 14, 2011, March 30, 2012, and April 30, 2012, in response to the opportunity to show cause why additional enforcement action should not be taken. This information was reviewed and considered in the assessment of civil penalties.

If you have any questions regarding this matter, please contact Tammy Gambill at (615) 532-0531.

Sincerely,

A handwritten signature in cursive script that reads "John A. Trimmer".

John A. Trimmer
Chief, East Tennessee Permit Program

JAT/jdm

Enclosure

c: Johnson City Environmental Field Office

TENNESSEE AIR POLLUTION CONTROL BOARD

IN THE MATTER OF:

SCEPTER GREENEVILLE, INC.

)
)
)
) **DIVISION OF AIR POLLUTION**
) **CONTROL**
)
) **CASE NO. APC11-0276**
)

RESPONDENT

Scepter Greeneville, Inc. 30-0176

CONSENT ORDER

This Consent Order is made and entered into by and between the Tennessee Department of Environment and Conservation (hereinafter "Department") and Scepter Greeneville, Inc. (hereinafter "Respondent").

PARTIES

I.

Barry R. Stephens is the Technical Secretary (hereinafter referred to in both below mentioned capacities as the "Secretary") of the Air Pollution Control Board (the "Board") and Director of the Division of Air Pollution Control (the "Division"), Tennessee Department of Environment and Conservation.

II.

Scepter Greeneville, Inc. (hereinafter referred to as the "Respondent") is a domestic corporation authorized to do business in the State of Tennessee. The Respondent's business address is 1230 Pottertown Road, Midway, Tennessee 37809. The Respondent's registered agent for service of process is Garney B. Scott III, 1485 Scepter Lane, Waverly, Tennessee 37185.

JURISDICTION

III.

Pursuant to T.C.A. Section 68-201-116, the Secretary may assess a civil penalty of up to TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) per day for each day of violation of the Tennessee Air Quality Act (the "Act") or any rules or regulations promulgated there under against any person who violates said Act or rules and/or the Secretary may issue an order for correction to the responsible person when provisions of the Act are being violated. In addition, such person may also be liable for any damages to the State resulting there from.

IV.

The Respondent is a "person" within the meaning of T.C.A. Section 68-201-102, and has violated the Division Rules as hereinafter stated.

FACTS

V.

The following violations were identified by Division personnel from the Nashville Central Office based on the Respondent's stack tests conducted on August 16, 24 and 25, 2011:

1. The Respondent failed to maintain the emissions of hydrogen fluoride at or below 2.24 pounds per hour (daily average) for the secondary aluminum furnaces of source 30-0176-01, as required by condition 12 of construction permit 963730P, issued on July 12, 2010, for a secondary aluminum processing operation.
2. The Respondent's stack test report stated that the average emissions of hydrogen fluoride were 4.89 pounds per hour. Condition 12 of construction permit 963730P requires the Respondent to maintain the emissions of hydrogen fluoride at or below 2.24 pounds per hour (daily average).

On October 20, 2011, the Division issued a Notice of Violation letter to the Respondent for the violations cited above.

VI.

The following violation was identified by Division personnel from the Nashville Central Office based on the Respondent's stack tests conducted on October 26 and December 1, 2011:

The Respondent failed to maintain the emissions of hydrogen fluoride at or below 2.24 pounds per hour (daily average) for the secondary aluminum furnaces of source 30-0176-01, as required by condition 12 of construction permit 963730P, issued on July 12, 2010, for a secondary aluminum processing operation. The Respondent's stack test report stated that the average emissions of hydrogen fluoride were 4.00 pounds per hour. Condition 12 requires the Respondent to maintain the emissions of hydrogen fluoride at or below 2.24 pounds per hour (daily average).

On March 9, 2012, the Division issued a Notice of Violation letter to the Respondent for the violation cited above.

VII.

The following violations were identified by Division personnel from the Nashville Central Office based on the Respondent's National Emission Standards for Hazardous Air Pollutants (NESHAP) for Secondary Aluminum Production, Excess Emissions Summary Report for the period of July 1, 2011, through December 31, 2011:

1. The Respondent failed to maintain the 3-hour block average temperature of gases entering the baghouse at or below 205 °F for the secondary aluminum furnaces of source 30-0176-01, as required by condition 60 of conditional major source operating permit 463610, issued on May 12, 2010, for a secondary aluminum processor. This revised temperature limitation was included in the OM&M (operation, maintenance and monitoring) plan dated May 2010 with revisions on March 22, 2011, and November 30, 2011. The following table identifies the deviation from the temperature requirement for furnace #02.

Date in 2011	3-hour Time Start	Block Period	3-hour Time Ended	Block Period	Average Temperature, °F
December 27	12:00		15:00		363.8

2. The Respondent failed to limit the reactive chlorine flux injection rate for the secondary aluminum furnaces of source 30-0176-01, as required by condition 55 of conditional major source operating permit 463610, issued on May 12, 2010, for a secondary aluminum processor. Condition 55 of conditional major operating permit 463610 requires the Respondent to maintain the reactive chlorine flux injection rate at or below 171 pounds of reactive chlorine per ton of aluminum scrap for the furnaces. This revised reactive chlorine flux injection rate limitation was included in the OM&M (operation, maintenance and monitoring) plan dated May 2010 with revisions on March 22, 2011, and November 30, 2011. The Respondent's semiannual report indicated that the reactive chlorine flux injection rate was exceeded during three operating cycles, as identified in the following table for furnace #03.

Date in 2011	Time of Operating Cycle	Reactive Chlorine Flux Injection Rate (limit 171) (lb of reactive chlorine/ton of aluminum scrap)
October 19	13:30 to 16:00	190.4
October 27	08:00 to 16:00	198.8
November 28	00:00 to 12:15	187.0

On April 4, 2012, the Division issued a Notice of Violation letter to the Respondent for the violations cited above.

VIII.

The following violations were identified by Division personnel from the Nashville Central Office based on the Respondent's National Emission Standards for Hazardous Air Pollutants (NESHAP) for Secondary Aluminum Production, Excess Emissions Summary Report for the period of January 1, 2012, through June 30, 2012:

1. Condition 20 of conditional major operating permit 463610 requires the Respondent to comply with all provisions of the OM & M (operation, maintenance and monitoring) plan dated May 2010 with revisions on March 22, 2011, and November 30, 2011. The Respondent's semiannual NESHAP report indicated 11 instances that the ammonia feed rate was not being injected as required by the OM&M (operation, maintenance and monitoring) plan dated May 2010 with revisions on March 22, 2011, and November 30, 2011, during the following dates and time periods:

Ammonia Feed Rate not being injected according to OM & M January 1, 2012, to June 30, 2012		
Control System No.	Date/Time Begin	Date/Time End
03	1/25 21:00	1/26 00:00
03	2/07 21:00	2/08 00:00
03	2/16 00:00	2/16 03:00
03	2/16 21:00	2/17 00:00
03	2/19 00:00	2/19 03:00
03	2/19 21:00	2/20 00:00
03	3/14 00:00	3/14 03:00
03	4/23 00:00	4/23 03:00
03	4/23 21:00	4/24 00:00
03	5/11 00:00	5/11 03:00
03	5/11 21:00	5/12 00:00

- The Respondent failed to maintain the 3-hour block average temperature of gases entering the baghouse at or below 205 °F for the secondary aluminum furnaces of source 30-0176-01, as required by condition 20 of conditional major source operating permit 463610, issued on May 12, 2010, for a secondary aluminum processor. This revised temperature limitation was included in the OM&M (operation, maintenance and monitoring) plan dated May 2010 with revisions on March 22, 2011, and November 30, 2011. The following table identifies the deviations from the temperature requirement for furnace #02.

Date in 2012	3-hour Time Ended	Block Period	Average Temperature, °F
April 15	15:00		214
April 15	21:00		206
April 16	18:00		210
April 29	18:00		209
April 30	21:00		220
May 1	00:00		217
May 1	03:00		207
May 2	21:00		209
May 3	00:00		211
May 3	18:00		220
May 4	15:00		208
May 6	21:00		208
May 7	12:00		206
June 20	15:00		208
June 20	18:00		210
June 21	15:00		206
June 21	18:00		206
June 21	21:00		208
June 22	15:00		207
June 23	18:00		207
June 24	18:00		206
June 28	18:00		206
June 29	15:00		211
June 29	18:00		209

Continued			
Date in 2012	3-hour Time Ended	Block Period	Average Temperature, °F
June 29	21:00		207
June 30	15:00		209
June 30	18:00		215
June 30	21:00		211

On August 28, 2012, the Division issued a Notice of Violation letter to the Respondent for the violations cited above.

VIOLATIONS

IX.

By failing to comply with conditions 20, 55 and 60 of conditional major operating permit 463610, issued on May 12, 2010, the Respondent has violated Division Rule 1200-03-09-.02(6). Said rule states, in pertinent part, as follows:

Operation of each air contaminant source shall be in accordance with the provisions and stipulations set forth in the operating permit, all provisions of these regulations, and all provisions of the Tennessee Air Quality Act.

By failing to comply with conditions 11 and 12 of construction permit 963730P, issued on July 12, 2010, the Respondent has violated Division Rule 1200-03-09-.01(1)(d). Said rule states, in pertinent part, as follows:

Construction or modification of an air contaminant source shall be in accordance with the provisions and stipulations set forth in the construction permit, all provisions of these regulations, and all provisions of the Tennessee Air Quality Act.

This Consent Order includes all violations documented by the Division on or before December 21, 2012, under the Respondent's construction permit 963730P, conditional major source operating permit 463610 and its semiannual compliance reports except for the alleged opacity exceedance documented for the date of December 12, 2012.

RELIEF

X.

WHEREFORE, PREMISES CONSIDERED, I, Barry R. Stephens, Technical Secretary, under the authority vested in me, hereby ORDER the Respondent to perform the following actions:

1. The Respondent is assessed and shall pay a CIVIL PENALTY in the amount of **ELEVEN THOUSAND DOLLARS (\$11,000.00)** for the violation of Division Rules, as discussed herein. The Respondent shall pay the assessed CIVIL PENALTY in full to the "Treasurer, State of Tennessee." All correspondence, including civil penalty payments, should be addressed to Tammy L. Gambill, Chief of Enforcement, Division of Air Pollution Control, Tennessee Department of Environment and Conservation, 9th Floor L&C Annex, 401 Church Street, Nashville, Tennessee 37243. The case number, "**APC11-0276**," should be clearly shown on the check or money order to ensure that the payment is properly credited. Payment shall be made within thirty (30) days of receipt of this CONSENT ORDER.

RESERVATION OF RIGHTS

In agreeing to the foregoing CONSENT ORDER, the Secretary does not implicitly or expressly waive any provisions of the Act or regulations promulgated thereunder, including the

right to assess civil penalties and damages, to enforce the provisions of the Act and Division Rules against the Respondent for violations of the Act and Division Rules. However, the full and timely compliance with the provisions of this CONSENT ORDER will be considered as a mitigating factor in determining the need for future enforcement action(s).

Respondent does not admit or deny the factual allegations or the alleged violations of law contained in this CONSENT ORDER. Respondent agrees to comply with this CONSENT ORDER to avoid the cost of protracted litigation. Respondent reserves the right to contest the factual allegations and alleged violations contained in this CONSENT ORDER in any proceeding other than any enforcement proceeding brought by the Department.

WAIVER OF RIGHT TO APPEAL

Respondent understands that it has the right to appeal this CONSENT ORDER pursuant to T.C.A. Section 68-201-108 and Section 4-5-301 *et seq.* Respondent knowingly and voluntarily waives all of these appeal rights.

The individual signing below on behalf of the Consenting Party represents that he is a duly authorized agent, capable of entering into a CONSENT ORDER on behalf of the Consenting Party.

ISSUED the 17 day of January, 2013, in the Office of the Technical Secretary of the Tennessee Air Pollution Control Board; **AGREED AND ORDERED** by the Secretary; and **AGREED AND CONSENTED** to by the Respondent.

January 17, 2013
Date

Barry R. Stephens
Barry R. Stephens
Technical Secretary
Tennessee Air Pollution Control Board

1/24/13
Date

Garney B. Scott III
Garney B. Scott
President
Scepter Greeneville, Inc.

JDM/APC11-0276